

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JUAN MARTINEZ, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

CARGILL MEAT SOLUTIONS
CORPORATION,

Defendant.

Case No. 4:09-CV-03079

**PLAINTIFFS' INDEX OF EVIDENCE
IN OPPOSITION TO DEFENDANT'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

DALE HAFLERLAND, JUAN MUNOZ,
KARLA VELASQUEZ, and MANUE
CORONA, on behalf of themselves and
all other similarly situated individuals,

Plaintiffs,

v.

CARGILL MEAT SOLUTIONS
CORPORATION,

Defendant.

Case No. 8:09-cv-00247

Plaintiffs submit the following Index of Evidence in Opposition to Defendant's Motion for Partial Summary Judgment.

Exhibit A is the December 3, 1997 DOL Opinion Letter.

Exhibit B is the January 15, 2001 DOL Opinion Letter.

Exhibit C is the June 6, 2002 DOL Opinion Letter (SCHUYLER 004785-004788).

Exhibit D is the May 14, 2007 DOL Opinion Letter (SCHUYLER 004773-004774).

Exhibit E is the June 16, 2010 DOL Opinion Letter.

Exhibit F is the April 24, 2006 letter to the DOL from Joe Tilson, counsel for Cargill (SCHUYLER 004768-004772).

Exhibit G contains the portions of the Deposition of Antonio Guzman Torres cited in Plaintiffs' Opposition to Defendant's Motion for Partial Summary Judgment.

Exhibit H contains the portions of the Deposition of Juan Martinez Seja cited in Plaintiffs' Opposition to Defendant's Motion for Partial Summary Judgment.

Exhibit I contains the portions of the Deposition of Steve Thompson cited in Plaintiffs' Opposition to Defendant's for Partial Summary Judgment.

Exhibit J contains the portions of the Deposition of Gary Bright cited in Plaintiffs' Opposition to Defendant's Motion for Partial Summary Judgment.

Exhibit K contains the portions of the Deposition of Sarah Heller-Glen cited in Plaintiffs' Opposition to Defendant's Motion for Partial Summary Judgment.

Exhibit L is Juan Martinez's Responses to Interrogatories.

Exhibit M is Antonio Guzman's Responses to Interrogatories

Exhibit N is the "PPE Diagram" included in Cargill's various "Job Task Procedures" (SCHUYLER 0000297, 0000251, 0000403, 0000533, 0000724, 0001214, 0001284, 0001319, 0001403).

Exhibit O is the "How Will My Safety Equipment (PPE) Protect Me?" page included in Cargill's "New Employee Orientation" (SCHUYLER 004301, 002208).

Exhibit P is the "Sequence of Task Procedures" page included in Cargill Meat Solutions Corporation's (CMSC) various "Job Task Procedures" (SCHUYLER 0000298, 0000252, 0000404, 0000534, 0000725, 0001215, 0001285, 0001320, 0001404).

Exhibit Q is Cargill's "Personal Protective Equipment (PPE)" booklet (SCHUYLER 002243-002275).

Exhibit R is the “Safety Equipment (PPE)” page included in Cargill’s “New Employee Orientation” (SCHUYLER 002207, 004300).

Exhibit S is the 2005 CBA (SCHUYLER 001970-002007).

Exhibit T is Cargill’s various “Hazard Assessment Forms” (SCHUYLER 004501-004762)

Exhibit U is Cargill’s various “Job Task Procedures” that require the use of a knife (SCHUYLER 0000301, 0000305, 0000386, 0000391, 0000395).

Exhibit V is a part of the “Equipment and Clothing” section of Cargill’s January 2006 “Production Employee Handbook” (SCHUYLER 002025).

Exhibit W is a part of the “Basic Food Safety Rules” section of Cargill’s January 2006 “Production Employee Handbook” (SCHUYLER 002024).

Exhibit X is a part of the “Your Time Card (KRONOS) section of Cargill’s January 2006 “Production Employee Handbook” (SCHUYLER 002029).

Exhibit Y is a part of the “Clothing and Laundry” section of Cargill’s May 2009 “Production Employee Handbook” (SCHUYLER 003956).

Exhibit Z is Cargill’s “Operational Sanitation Standard Operating Procedure” (SCHUYLER 003141-003143).

Exhibit AA is the “Lockers” section of Cargill’s May 2009 “Production Employee Handbook” (SCHUYLER 003984).

Exhibit BB is the Grievance filed by the Union at the Schuyler Plant and an e-mail concerning the Grievance (SCHUYLER 003912-003913).

Exhibit CC contains Sarah Heller-Glen’s notes on the negotiation for the 2005 CBA (SCHUYLER 002016).

Exhibit DD is the “Removal of Personal Protective Equipment (PPE) From Plant” section of the June 2008 “Production Employee Handbook” (SCHUYLER 003957).

Exhibit EE is the “Employee Work rules” section of the “New Employee Orientation” manual (SCHUYLER 004284).

Exhibit FF is the “What Do I Need To Know About Food Safety Policies, Rules And Procedures” section of “New Employee Orientation” manual (SCHUYLER 004324).

Exhibit GG is the Nebraska Legislative Bill 265 (LB 265).

Exhibit HH is a copy of *Morales v. Farmland Foods*, No. 8:08CV504, slip op. (D. Neb. Aug. 16, 2010).

Exhibit II is a copy of *Gomez v. Tyson Foods* 2010 No. 8:08-cv-00021, slip op. (D. Neb. May 5, 2010).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 5th day of November, 2010.

Date: November 5, 2010

Respectfully submitted,

s/ Carolyn H. Cottrell
Carolyn H. Cottrell, Cal Bar #166977
Todd M. Schneider
SCHNEIDER WALLACE
COTTRELL BRAYTON
KONECKY LLP
180 Montgomery Street, Suite 2000
San Francisco, California 94104
Tel: (415) 421-7100
Fax: (415) 421-7105
ccottrell@schneiderwallace.com
tschneider@schneiderwallace.com

BERGER & MONTAGUE, P.C
Shanon J. Carson
Russell D. Henkin

Jonathan D. Berger
James A. Wells
Sarah R. Schalman-Bergen
1622 Locust Street
Philadelphia, PA 19103
Telephone: (215) 875-3000
Facsimile: (215) 875-4604
scarson@bm.net
rhenkin@bm.net
jdberger@bm.net
jwells@bm.net
sschalman-bergen@bm.net

THE DOWNEY LAW FIRM, LLC
Philip A. Downey
P.O. Box 736
1555 Embreeville Road
Unionville, PA 19375
Telephone: (610) 324-2848
Facsimile: (610) 347-1073
downeyjustice@gmail.com

WELSH & WELSH, P.C., L.L.O.
Christopher P. Welsh (State Bar No. 22279)
9290 W. Dodge Road
100 The Mark
Omaha, Nebraska 68114
Tel: (402) 384-8160
Fax: (402) 384-8211
cwelsh@welsh-law.com

KENNEY, MCCAFFERTY LAW FIRM
Brian P. McCafferty
3031C Walton Road, Suite 202
Plymouth Meeting, PA 19462
Tel: (610) 940-0327
Fax: (610) 940-0284

PROVOST, UMPHREY LAW FIRM -
NASHVILLE
Michael Hamilton
2021 Richard Jones Road Suite 300
Nashville, TN 37215
Tel: (615) 242-0199
Fax: (615) 256-5922

DOOLITTLE LAW FIRM

Roger K. Doolittle
460 Briarwood Drive, Suite 500
Jackson, MS 39206
Tel: (601) 957-9777
Fax: (601) 957-9779

EGAN YOUNG
Eric Young
Brandon J. Lauria
526 E. Township Line Road, Suite 100
Blue Bell, Pennsylvania 19422
Tel: (215) 367-5151
Fax: (215) 367-5143

Attorneys for Plaintiffs and the Class

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Jonathan D. Berger	jdberger@bm.net
Shanon J. Carson	scarson@bm.net
Carolyn H. Cottrell	ccottrell@schneiderwallace.com, efilings@schneiderwallace.com
Roger K. Doolittle	rogerkdoolittle@aol.com; doolittlelaw@yahoo.com
Philip A. Downey	downeyjustice@gmail.com
Jeremy J. Glenn	jeremy.glenn@mbtlaw.com
Michael Hamilton	mhamilton@provostumphrey.com, lheembrock@provostumphrey.com
Russell D. Henkin	rhenkin@bm.net
Brandon J. Lauria	blauria@eganyoung.com
Brian P. McCafferty	cafstar@aol.com
Gail S. Perry	gperry@baylorevnen.com, dwilmore@baylorevnen.com, sblackwell@baylorevnen.com
Sarah R. Schalman-Bergen	sschalman-bergen@bm.net
Todd M. Schneider	tschneider@schneiderwallace.com, efilings@schneiderwallace.com
Joseph E. Tilson	joe.tilson@mbtlaw.com
James A. Wells	jwells@bm.net, mprincipato@bm.net
Christopher P. Welsh	cwelsh@welsh-law.com
Eric L. Young	eyoung@kemy-law.com

s/ Carolyn H. Cottrell
Carolyn H. Cottrell, Cal Bar #166977
SCHNEIDER WALLACE
COTTRELL BRAYTON KONECKY LLP
180 Montgomery Street, Suite 2000
San Francisco, CA 94104
Tel: (415) 421-7100
Fax: (415) 421-7105
ccottrell@schneiderwallace.com